

REMARKS

Claims 1-39 are pending in this application, of which claims 8, 22 and 24-38 are withdrawn. No new matter has been added

35 U.S.C. § 103

Claims 1-7, 9, 10, 11, 13-21 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shepard et al., WO 99/11452 (Shepard) in view of Franz, U.S. 5,224,895 (Franz) and Nemec et al., U.S. 6,010,387 (Nemec). Additionally, claim 23 stands rejected under 103(a) as being unpatentable over Shepard, Franz, and Nemec as applied above, and further in view of Powell, U.S. 5,603,504 (Powell), and Bricker, U.S. 5,664,780 (Bricker).

Referring first to the declaration under 37 C.F.R. § 1.132 filed herewith, Paul R. Erickson, named co-inventor in the cited reference, avers that the portion of the Shepard reference relied on as the basis of rejection was the sole contribution of co-inventor William H. Shepard. Therefore, the disclosure relied on as the basis of rejection is not the work of another, and is therefore not available as a reference under 35 U.S.C. § 102(a).

In addition, as evidenced in the statement regarding common ownership, filed herewith, the subject matter disclosed in the Shepard reference and the subject matter of the application at issue were, at the time of the invention of the claimed subject matter, commonly owned. Therefore, Shepard is not available as a reference under 35 U.S.C. § 102(e).

As the cited disclosure of Shepard is not available as a reference under either 35 U.S.C. § 102(a) or 102(e), and, as Shepard does not qualify as a prior art reference under any other statutory provision, Applicants respectfully request that these rejections be withdrawn.

Claims 1-7, 9-11, 13-21 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawless, U.S. 5,891,547 (Lawless) in view of Franz and Nemec.

Referring to MPEP §§2144-2146, in a rejection for obviousness under 35 U.S.C. § 103(a), the teachings of the references may be modified in order to meet the claim, but there must be suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. There must also be

reasonable expectation of success, and the prior art reference much teach or suggest all of the claim limitations.

Applicants disclose and claim a laminate having a hook-engageable surface. The laminate comprises a substrate of paper having at least one broad surface and a layer of hook-engageable material. The hook-engageable material has a basis weight of less than about 4 ounces per square yard and comprises a generally sheet-form web body having a first surface laminated to the broad surface of the paper substrate, and a second surface from which hook-engageable fibers or yarns extend. None of the prior art references relied upon by the Examiner, whether taken alone, or in any proper combination, teaches or suggests Applicants' invention as claimed.

In particular, Lawless describes a lightweight, non-woven, fabric for a hook and loop fastening device (see Abstract) coated with a binder finish (col. 2, lines 58-59) and attached to a substrate or backing layer (col. 3, lines 13-15), wherein the backing layer is "a film, stable non-woven fabric, lightweight woven fabric, or knit scrim" (col. 5, lines 53-54). Lawless identifies polyester, polyolefin, polyvinyl alcohol, block copolymer, elastomeric polymer, copolyester, urethane, styrene block copolymer, elastic foam, polyvinyl chloride, nylon, a polyethyl block amide such as Pebax®, or combinations thereof as suitable backing layer materials. As acknowledged by the Examiner, Lawless neither teaches nor suggests Applicant's invention of a lightweight hook-engageable laminate comprising a sheet-form fabric web including hook-engageable fibers or yarns laminated to a *paper substrate*. (Emphasis added).

Additionally, neither Franz nor Nemec, whether taken alone or in combination, would have motivated one of ordinary skill in the art to use a paper substrate as a backing with the lightweight, non-woven, sheet-form material described in Lawless.

Nemec describes a display system including panels, wherein the panels comprise corrugated plastic material covered front-to-back with a hook or loop material (col. 3, lines 44-46). Nemec does not provide the subject matter missing with respect to the primary reference. Specifically, Nemec does not provide any teaching or suggestion of a paper substrate.

Franz describes a learning aid for small children including a base component to which a variety of interchangeable components can attach (col. 3, lines 5-8). According to Franz, the base and/or interchangeable components can be formed of any suitable material, including

“paper of any desired strength and/or thickness” (col. 4, lines 10-15), and the interchangeable components “may be secured to the base component...by means of cooperating hook and loop fastening material portions” (col. 5, lines 44-47). However, Franz does not describe laminating a nonwoven material or sheet-form web of loop material to a paper substrate. Rather, Franz describes sewing the fastener material portions to the substrate/component (col. 5, lines 60-63). Applicants have included a sample of their claimed laminate material in support of their contention that those of ordinary skill would not have considered sewing a feasible method of attaching a loop material of the extremely low basis weight recited in the claims, and therefore would not have been motivated by the Franz disclosure to consider laminating the low-weight loop product of the Lawless reference. Thus, Applicants respectfully request that the obviousness rejection be reconsidered and withdrawn, and that the enclosed sample be placed in the file as a permanent exhibit.

Applicants further contend that even if Franz had disclosed laminating heavy loop materials to a paper substrate by other means, such as adhesives, it would not have motivated one of ordinary skill in the art to use a paper substrate as a backing with the lightweight, non-woven, fabric materials described by Lawless. Given that paper is a non-homogenous material generally known to have a porosity that plastic film, for example, typically does not, those of ordinary skill in this art would have understood that there is a tendency for adhesives applied at the surface of paper to seep into the paper and away from the surface. To consider that along with the physical characteristics of the lightweight fabric materials described by Lawless (or the lightweight fabric of the sample laminate provided herewith), one of ordinary skill in the art would have appreciated the great degree of difficulty in obtaining a functional adherence between these two materials while, at the same time, preserving the qualities of a loop surface so that, as a laminate, it can function as a hook-engageable fastener. Applicants respectfully submit that, due to the gossamer-like nature of these lightweight loop materials, which renders them extremely thin and permeable, one of ordinary skill at the time of the invention would have expected that, upon gluing such a material to paper with sufficient adhesive to account for the natural porosity of paper and with a light load sufficient to ensure intimate contact, the glue would penetrate the loop material enough to flood the sparse loop structures on the active face of the loop material,

thus rendering it effectively useless as a fastener material. Therefore, Applicants contend that the teachings of Nemec and Franz, taken alone or in combination, would not have motivated one of ordinary skill in the art to use a paper substrate as a backing with the non-woven sheet-form material described in Lawless.

Applicants also note that the above remarks advancing the case for patentability of the pending claims over the combination of references with Lawless would apply with equal weight to a similar combination of secondary references with Shepard, were the latter fully available as a reference under §§ 102(a) and (e).

Claims 1-2, 4, 5, 6, 9-11, 13-20, and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nemec in view of Lawless and Franz. As discussed above, Nemec fails to teach a lightweight non-woven material with a paper substrate backing. Rather, Nemec describes a corrugated plastic substrate covered with a nonwoven loop material. The Examiner suggests that the efficient and cost effective process by which the lightweight non-woven fabric described in Lawless is made would have motivated one of ordinary skill in the art to substitute the more cost-effective loop material for the non-woven loop described in Nemec. Further, the Examiner suggests that since Franz describes that plastic backing layers in display systems can be replaced with paper substrates, it would have been obvious to one of ordinary skill in the art to replace the corrugated plastic substrate of Nemec with a cheaper, corrugated paper substrate. However, given the perceived difficulty and impracticality of adhering the lightweight non-woven materials described in Lawless to a paper substrate, as discussed above, one of ordinary skill in the art would not have been motivated to combine these references with Nemec to arrive at Applicants' claimed invention.

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawless, Franz, and Nemec as applied above, and further in view of Powell and Bricker. Additionally, claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Nemec, Lawless, and Franz, as applied above, and further in view of Powell and Bricker. Powell and Bricker are added for teaching printing on loop material. However, Powell and Bricker fail to provide the subject matter missing from the other references with respect to the base claims, as discussed

Applicant : William H. Shepard et al.
Serial No. : 10/657,507
Filed : September 8, 2003
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above. Therefore, Applicants submit that claim 23 is patentable at least for the reasons stated above.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to amendment.

Enclosed is a \$790 check for the Request for Continued Examination fee. Please apply any other charges or credits to deposit account 06 1050, referencing attorney docket no. 05918-133002.

Respectfully submitted,

Date:

December 28, 2005



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